

# ABOUT GROWTH

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*Providing financial and technical resources to build livable and sustainable communities*

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### *America's threatened farmlands:*

## The struggle to keep farmers in farming and farmland in agriculture

**By Don Stuart**  
Pacific Northwest Regional Director,  
American Farmland Trust

Every year 1.2 million acres of America's best farmland is paved over for development. This is not just any land – it is our most productive farmland. It is land that has water, the best soils, the best climate, and the best growing conditions.

These losses are not just occurring around our cities. Much of this fragmentation of our agricultural land base is taking place in areas traditionally thought to be rural. It is driven by longer-distance commuters and by recreational and retirement purchasers. And it is fueled by wealth brought to our cities by a global economy that has, at the same time, brought international competition to our farmers.

From the perspective of many non-farmers today, farmland is cheap.

Moreover, these losses aren't just happening at a constant rate – rather our loss of land accelerates every year. So this is a social issue – one we could do something about.

This is not just a factor of population either. We are using up our farmland at a rate approaching three times the rate of our population growth. The Pacific Northwest's population is projected to grow over the next 100 years by a factor of three to seven times. This generation's grandchildren will be living then. What kind of world will they inherit?

The American Farmland Trust (AFT) is the only national nonprofit organization solely dedicated to conserving our nation's priceless farmlands and promoting farming practices that lead to a healthy environment. Formed in 1980, AFT has nine regional offices around the country. The Northwest Regional Office opened in August 2000. It works at the state and local levels to create programs to keep farmland in production and to assure the management of farmland for good conservation stewardship.

In 1999 AFT completed a Cost of Community Services study in Skagit County. It

demonstrated that farmland costs less in community services than it pays in taxes, compared with residential lands which cost more in community services than they pay in taxes. Now AFT is completing an economic profile and impact analysis for Skagit County agriculture. It is also helping Skagitonians to



**AFT works throughout the state and nation to keep farmlands in production.**

PHOTO / MARY ELLEN WINSKI

Preserve Farmland build an economic development strategic plan for the local agriculture industry.

AFT recently completed a Farm-City Forum in Pierce County. It was hosted by Pierce County Executive John Ladenburg and included mayors from several local communities, county officials, citizen activists, farmers and farm group representatives, and others interested in conserving a strong agricultural base.

A second, larger public meeting was convened. Out of it came 12 task forces

## ABOUT GROWTH

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*About Growth* features topics that are of high interest and strives to reflect a wide range of views from various perspectives. The views expressed are those of the authors and not necessarily OCD's opinions or positions.

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## New managing director joins OCD



**By Leonard Bauer, AICP**  
 Managing Director, Growth  
 Management Services,  
 Washington State Office of  
 Community Development

**G**reetings. As of this writing, I have been serving for two weeks as managing

director of Growth Management Services here at the Washington State Office of Community Development (OCD). It has been a challenging adjustment from my past experience as a local government planner and community development director, particularly with regard to the breadth and scope of the issues involved.

There are also many similarities – such as working with diverse interest groups, adapting to tight budget constraints, and implementing new legislative decisions. But one thing is definitely the same at Growth Management Services as it was in local government – I am one of a small but dedicated group of staff working to assist communities as they make plans for their future.

There are many challenging issues facing cities and counties as they prepare for their required comprehensive plan updates in the next few years. This issue of *About Growth* shares some experiences from counties and other organizations that are wrestling with the complex issues of planning for sustainable agricultural lands. The Growth Management Act (GMA) requires conservation of agricultural lands with long-term commercial significance (RCW 36.70A.170). However, conserving land is just one piece of the agriculture puzzle. There are many other factors – economic, environmental, and land use – affecting the ability to sustain viable agricultural activity. The innovative programs covered in this newsletter offer a few examples of the work underway all over the state to plan for the future of agricultural lands and their surrounding communities.

The other day, as we were discussing my new job, my seven-year-old son asked me, “Dad, what’s a career?” I began to explain how it’s the type of work you do for most of your life, and that it may consist of several different jobs. He seemed to grasp immediately the importance of deciding on a career, and we spent a few minutes discussing the pros and cons of his career options, which that particular day consisted of firefighter, airline pilot, or

teacher. Then he exclaimed, “So your career is to help people build good neighborhoods!”

It was a good reminder of the reason I entered the planning profession, and I believe it is the reason for Washington’s growth management system. I am glad to be continuing my career helping people all over Washington use the tools provided by the GMA to build and strengthen their communities.

### Sign up now for workshops on critical areas

OCD is joining with other state agencies and local government planners to offer four workshops on developing effective critical areas ordinances. The dates and locations are:

- **Spokane**, West Coast Ridpath Hotel, May 14
- **Wenatchee**, Wenatchee Convention Center, May 15
- **Lynnwood**, Embassy Suites, May 22
- **Lacey**, Lacey Community Center, May 23

The workshops also will feature discussions of a new model critical areas ordinance developed by OCD, in consultation with other state agencies and local governments. The model ordinance will be helpful to cities and counties as they update growth management plans and regulations. It offers regulatory and non-regulatory options and references development standards that reflect the best available science. For a draft copy of the model ordinance, see [www.oed.wa.gov/growth](http://www.oed.wa.gov/growth).

For information on how to register for the free workshops, call Growth Management Services at 360-725-3000 or e-mail [athenas@ctd.wa.gov](mailto:athenas@ctd.wa.gov).

### List of scientific references ready

Are you puzzled about what is the best available science as you update your critical areas ordinances? Do you dread pouring through scientific journals and Web sites to try to glean the needed information? OCD’s *Citations of Recommended Sources of Best Available Science for Designating and Protecting Critical Areas* is available to help you. In the listing of more than 235 citations, you’ll find recommendations from state resource agencies on scientific information to consider as you review your critical areas ordinances.

To receive a copy, call Growth Management Services at 360-725-3000 or view it on the Web site at [www.oed.wa.gov/growth](http://www.oed.wa.gov/growth).

# County committee pursues ways to conserve farmland

By **Kraig Olason**

Senior Planner, Whatcom County Planning and Development Services

**A**griculture is an important economic, cultural, and historic component of Whatcom County. Annual farm receipts top \$250 million, the bulk of that coming from the dairy industry which has been ranked No. 1 for production in the state for many years and sixth nationally. Red raspberries are another important Whatcom County commodity, with local farmers producing half of the nation's crop.

Trends have seen a decline in the acres under production and the number of farmers. The effects of globalization on agricultural commodities and the downturn in Asian economics have resulted in depressed prices for nearly all local agricultural commodities. Development pressure is resulting in the rapid conversion of large-lot, rural farmland into five-acre ranchettes or rural clusters. The proximity of agricultural land to urban growth areas (UGAs) greatly reduces farmer investments in improvements.

As a result of these trends, Whatcom County has been working with the agricultural community to find ways to better conserve the land base and limit unnecessary regulations in an effort to maintain this important industry.

Beginning in 1999, Whatcom County joined with the agricultural community to rewrite the Agricultural District zoning language. As part of this effort, the Whatcom County Council approved an Agricultural Advisory Committee (AAC) as proposed by the county executive. In addition to overhauling the agriculture zoning text, they were asked to develop a strategy for conserving and enhancing the agricultural sector of Whatcom County and to comment on land use proposals that affect agriculture.

The committee adopted the following mission statement:

*The Agricultural Advisory Committee provides review and recommendation to the Whatcom County Council on issues that affect agriculture. The AAC also provides a forum for farmers and others interested in enhancing and promoting the long-term viability of Whatcom County agriculture.*

The County Council adopted a work plan prepared by the committee and established the AAC as a permanent committee to advise the council on matters relating to agriculture. Work plan goals include establishing an equitable tax system, conserving farmland, resolving water issues, minimizing impact of

regulations and development on farmers, developing public information and education, and developing infrastructure.

The AAC has identified the rural zoned lands as critical to maintaining the overall agricultural "critical mass" necessary for a healthy local agricultural economy. Studies are currently underway to increase local understanding of the affects rural land conversion has on the agricultural sector and costs to local governments.

A number of projects identified in the work plan have been initiated. Collaboration between various agencies is critical for implementation.

Whatcom County Planning and Development Services staffs the AAC with assistance from the Whatcom County Conservation District. The local Natural Resource and Conservation Service, individual farmers, local agricultural groups, and WSU Cooperative Extension all participate on the committee. The Port of Bellingham, Western Washington University (WWU), and American Farmland Trust are also project partners.

Current activities include:

- Development of a Purchase of Development Rights Program – with a proposal to County Council by May 1, 2002.
- Update of the resource chapter of the comprehensive plan – to be submitted to the planning commission by April 2002.
- Review and comment on comprehensive plan proposals that affect agriculture by spring 2002.
- Analysis of critical mass goals and existing farmed acreage within the designated agricultural lands.
- Development of an Agricultural Mitigation Program – draft proposal for AAC review by fall 2002.
- Special studies:
  - Land trends mapping – American Farmland Trust.
  - Economic analysis, agricultural sector – Port of Bellingham/WWU.
  - Simulation modeling, economic affects of agricultural land conversion – Port of Bellingham/WWU.
  - Rural parcel study – Whatcom County Planning and Development Services.

## The struggle to keep farmers in farming and farmland in agriculture

CONTINUED FROM PAGE 1

composed of citizens committed to specific projects to strengthen agriculture. These projects include: strengthening local marketing of local farm products, making unused public lands available for agriculture, improving coordination of farm-business regulations, increasing institutional buying of local produce, starting more local farmers' markets, and strengthening farmer-urban coalitions.

These projects are typical of AFT's work locally and around the country.

AFT's program is built on the proposition that profitable farming and environmental stewardship are consistent, and that conserving farmland for future generations is in the interests of farmers and the public.

For further information, call 253-446-9384 or e-mail [dstuart@farmland.org](mailto:dstuart@farmland.org).



**Whatcom County is working with the agricultural community to find ways to better conserve farmland.**

PHOTO / COURTESY OF WHATCOM COUNTY



# Urban county working to keep farmlands viable

**By Cynthia Moffitt**  
Policy Analyst, King County Office of  
Regional Policy and Planning

**A**lthough King County is an urban county with a population of 1,758,300, one of the major objectives of the county's growth management work is keeping the county's agricultural lands in production.

"I don't want my grandchildren to have to go to a museum and be told 'this is what a farm looked like,'" said King County Executive Ron Sims.



**King County Executive Ron Sims encourages consumers to buy locally grown produce.**

PHOTO / COURTESY  
OF KING COUNTY

Since 1959, almost 60 percent of King County's prime agricultural land has been lost to urban and suburban development. Fortunately the amount of agricultural land has stabilized due, in large part, to a variety of county policies and initiatives to conserve these commercially viable resource-based lands.

King County is taking major steps to conserve and manage agricultural soils and activities. Encouraging development to occur primarily in the urban growth area as envisioned by the GMA helps conserve agricultural lands and the industries they support. Under the *King County Comprehensive Plan*, designated Agricultural Production Districts will have minimal new residential and commercial development. New development that does occur will be designed to be compatible with active resource-based uses.

King County has developed a strategy for conservation of valuable agricultural

lands and for encouraging their productive and sustainable management. The strategy consists of policies to guide planning, incentives, education, regulation, and the purchase and transfer of development rights.

The King County Agriculture Program brings together the county's previous efforts to conserve prime agricultural soils (the Farmlands Preservation Program) with efforts to improve agricultural practices to make them more environmentally sound (the Livestock Management Ordinance), and current

programs to encourage the activity of agriculture.

Examples of programs that support further agricultural development in King County include the Puget Sound Fresh Program, the Farmland Preservation Program, and the recently established Transfer of Development Rights Program.

## Puget Sound Fresh Program

The Puget Sound Fresh Program (see [www.pugetsoundfresh.org](http://www.pugetsoundfresh.org)) was created by the King County Agricultural Commission and is supported through a partnership between King and Snohomish Counties.

Puget Sound Fresh encourages consumers, wholesalers, retailers, and restaurants to seek out and purchase locally grown products. Pierce, Kitsap, and other counties have joined the program, designed to increase consumer preference for locally grown products by identifying them with a Puget Sound

Fresh sticker or banner. Area grocery stores and farmers markets are invited to promote local produce and farm products by using the logo.

## Farmland Preservation Program

A voluntary program, the Farmland Preservation Program (FPP) began in 1979 when the voters of King County approved a \$50 million initiative authorizing the county to conserve rapidly diminishing farmland by purchasing the right to develop it. During the 1980s, King County acquired the development rights on 12,800 acres of high-quality farmland.

FPP properties include dairies, beef, horse, and other animal operations as well as nurseries, and farms raising hay, silage, berries, row crops, flowers, and Christmas trees.

## Transfer of Development Rights Program

Established in 1998, the Transfer of Development Rights (TDR) Program allows individuals to purchase and sell residential development rights from lands that provide a public benefit. Such lands include farm, forest, open space, regional trails, designated urban separator lands, and habitat for threatened or endangered species. Landowners receive financial compensation without developing or selling their land and the public receives permanent preservation of the land. Transferred development rights can be used to build additional houses on other parcels in more appropriate areas.

In 2001 the TDR program was converted from a three-year pilot to a permanent program. Part of this conversion included providing a new incentive for the acquisition of development rights for farmlands. Under Ordinance No. 14190, farmers in the Agricultural Production District receive a bonus to encourage participation in the TDR program. Under the new rules, a farmer may transfer residential density using a formula based on one unit per five acres rather than one unit per 35 acres. This incentive applies only to private land not already enrolled in the Farmland Preservation Program.

For more information about the TDR program, see [www.metrokc.gov/exec/orpp/tdr/](http://www.metrokc.gov/exec/orpp/tdr/).

# Development rights programs gain popularity

By Rita R. Robison, AICP  
Editor, *About Growth*

Washington State is fortunate to have a vast array of agricultural lands that contribute significantly to its economy.

Two innovative techniques local governments can use to conserve these valuable lands are transfer of development rights (TDR) programs and purchase of development rights programs (PDR).

In TDR programs, a district is designated as the "sending area." Development is limited in that area through downzoning or other restrictions. Development rights, or TDRs, are assigned to parcels within the sending area. An area to which TDRs can be sent is designated the "receiving area."

Developers pay for development rights so they can build at higher densities in the receiving area. The development rights are sold without buying and selling the land.

In PDR programs, property owners are compensated who voluntarily agree to sell the right to develop their land. The right to develop is separated and sold so that the land remains in farming.

At the state level, SHB 2758 (Laws of 2002, Chapter 280) authorizes the State Conservation Commission to set up an Agricultural Conservation Easements Program that will facilitate the use of federal funds and help local governments conserve agricultural lands. No funds were appropriated for the program in the 2001-2003 biennium.

Interest in transfer of development rights programs comes and goes. The East Coast, with limited land supply and increasing development pressure, has seen more successes. A renewed interest in TDR and PDR programs in Washington is occurring.

## King County

In 1979 the \$50 million Farmland Preservation Program, a PDR program, was approved by the voters of King County. It has conserved 12,800 acres of threatened farmland.

In 1998 King County established a TDR Program that allows individuals to purchase and sell residential development

rights from agricultural lands that provide public benefit. To date, the program has conserved more than 1,200 acres forestland and regional trail corridors. (See page 4 for details.)

## Clallam County

No transfers have been completed under Clallam County's TDR program, set up in 1998. Critical areas and open space are covered in addition to agricultural lands. Three zones in the City of Sequim's UGA are the receiving areas. Rich James, county senior transportation planner, thinks interest in the TDR program will increase when more lots vested prior to the passage of the GMA have been developed.

Clallam County has also appropriated \$250,000 for a pilot PDR program.

## Thurston County

Under Thurston County's TDR program established in 1996, one agricultural landowner has recorded an easement on his property for development rights that can be marketed to developers for use in urban areas. The development rights have not yet been purchased.

Receiving areas have been established by ordinance in the Cities of Olympia, Tumwater, and Lacey and their UGAs. Developers receive a bonus of one to three units per acre in certain zones for purchasing TDRs.

"If another couple of years go by and there have still been no transfers, we'll probably have to reevaluate how we might make the program work better," said Jennifer Hayes, associate planner for Thurston County Development Services.

Using its Conservation Futures Fund, Thurston County purchased development rights on more than 940 acres in the Nisqually Valley between 1996 and 1998. These funds could be used again in the future for the purchase of agricultural development rights.

## Pierce County

The county comprehensive plan and subarea plans for the Gig Harbor Peninsula and the Parkway-Spanaway-Midland area include policies for TDR options for agricultural and forest lands and wetlands. The county is looking at how to develop TDR programs for the areas and

how a county-wide program could be developed.

## San Juan County

The voters of San Juan County approved a land bank in 1990 that is financed through a 1 percent real estate excise tax on the purchase of property. Through the program, the development rights have been purchased on 1,625 acres of agricultural land and 150 acres of agricultural lands have been purchased.

## Skagit County

Interest is slowly increasing in Skagit County's PDR program for farmland and critical areas. Since a conservation futures tax was enacted in 1996, 2,300 acres have been placed under conservation easements.

"The tax provides a stable source of revenue for the program," said Rich Doengess, director of the county's Conservation Futures Program. The funds can be used to pay off revenue bonds and as a match for grant funds. The county has received \$800,000 from the federal Farmland Protection Program for the program. Skagit County has 90,000 acres in its agricultural zone that it wants to conserve.

## Snohomish County

A Snohomish County feasibility study is underway on a pilot TDR project for Stillaguamish River Valley farmland. To be completed in June, the report will identify possible sending and receiving areas. It also will evaluate whether development rights could be transferred for items such as parking or commercial density, in addition to the purchase of increased residential density.

Area development pressure is leading to consideration of the pilot program, said Tom Niemann, county principal planner.

## Whatcom County

Whatcom County is considering launching a PDR program. See page 3.

## Island County

In 1998 Island County abandoned the TDR program set up in 1984. The county had a significant amount of agricultural property to take credits from, but no demand for the credits, said Phillip Bakke, county planning director.



# Counties receive agricultural land awards

By Rita R. Robison, AICP  
Editor, *About Growth*

To recognize the outstanding work of local governments on the 10th Anniversary of the GMA, Growth Management Services selected 22 communities and projects to receive a Growth Management Achievement Award from OCD. Among those chosen were Franklin and Grant Counties for the designation of agricultural lands. Here are excerpts from *Achieving Growth Management Goals: Local Success Stories* about the work of these two counties in designating agricultural lands in their areas.



In Franklin County, 645,000 acres of agricultural lands are designated for long-term production.

OCD PHOTO / RITA R. ROBISON

## Grant County

The *Grant County Comprehensive Plan* states that the county's culture, customs, history, future, way of life, and economy depend on the land and stewardship of the land and its resources.

"Grant County is agriculture," said Deborah Moore, a county commissioner who has farmed in the county for 22 years. "It's the economic lifeblood of the county. We need to do what we can to protect agriculture and the agricultural industry. Designating agricultural lands is part of that."

The market value of all agricultural products sold in Grant County was more than \$804 million in 1997, according to the *Washington Agricultural County Data 1997* compiled by the Washington Agricultural Statistics Service. This was the second highest amount among all counties of the state.

Grant County tops state and national charts for the production of wheat, corn, hay, potatoes, and several tree fruits. The county also ranks high as a producer of mint, grass seed, carrots, green peas, sweet corn for processing, and onions. In addition, it is a major center for livestock production.

One of the first things Grant County did when it began its planning work

under the GMA was to develop criteria for designating agricultural land. Grant County has designated a large land base of agricultural lands – 1,264,281 acres.

To define agricultural lands, the county was guided by the Minimum Guidelines to Classify Agriculture, Forest, Mineral Lands, and Critical Areas established by the OCD.

## Franklin County

Franklin County is one of the nation's leading agricultural production regions.

It produces a wide range of food and fiber products, including grains, potatoes, livestock, forage crops, and specialty crops (grass seed, tree fruits, berries and grapes, vegetables, nursery plants, and dairy products).

The county had about \$333 million in market value of agricultural products sold, ranking it third among all counties in the state, according to the 1997 Census of Agriculture.

Under the GMA, Franklin County designated 645,000 acres of agricultural lands to conserve them for long-term commercial production.

Franklin County utilized several different methods in completing this task. First, parcel maps from the County

Assessor's Office were gathered, identifying parcel sizes, shapes, distribution, and numbers, which helped to determine and characterize where the urban growth was occurring. Second, aerial photos were taken to assist in determining the location and intensity of the county's existing agriculture.

Irrigated and non-irrigated areas were identified as well as areas utilized for pasture. Third, the aerial photos were overlain on the parcel maps to compare the agricultural structure with urban characterization. Then the public, which included key officials, community stakeholders, and citizens, reviewed the information and made informed recommendations and decisions on the designation of Franklin County's agricultural lands as required under the GMA.

Billie Ross, a farmer and member of the Franklin County Planning Commission, said that most of the county's farmers welcome the agricultural land designations under the GMA. Ross raises Concord grapes for juice and jams.

## Designating shellfish beds as resource lands

By Harriet Beale and Stuart Glasoe  
Puget Sound Water Quality Action Team

The GMA can be used to conserve commercial shellfish beds by designating them as agricultural lands of long-term commercial significance. Authority for this is provided in RCW 36.70A.030(2) and WAC 365-190-050.

Agricultural lands are defined to include areas devoted to the commercial production of animal products, which includes oysters, clams, and other farmed shellfish.

The resource land designation is well suited to aquacultural operations because the commercial activity occurs directly on the land where the crops are grown and harvested. Like other natural resource operations, the designation allows shellfish farmers to carry out normal farming activities that others who later build in the area might find objectionable.

The resource land designation can provide an added benefit by allowing accessory uses, such as shellfish processing plants, to be located on or near the resource lands.

Crafting the resource lands ordinance to allow for accessory uses can help avoid broader zoning changes that could potentially bring in other industrial uses that might be incompatible with long-term commercial use of the tidelands.

At the heart of the matter is the fact that shellfish beds need protection from pollution that can threaten their condition and harvest classification. The resource land designation can assist jurisdictions in structuring their comprehensive plans and development regulations to more effectively and permanently protect water quality in shellfish growing areas while prohibiting incompatible, adjacent land uses and development.

Jefferson County is one jurisdiction that has acted on this authority. At the urging of shellfish growers in north Hood Canal, Jefferson County adopted a resource land designation for commercial shellfish growing areas in its 1998 comprehensive plan. The plan's Natural Resource Conservation Element can be viewed at:

[www.co.jefferson.wa.us/commdevelopment/complan.htm](http://www.co.jefferson.wa.us/commdevelopment/complan.htm).

### Strategy being developed for lands contaminated by lead and arsenic

By Ann Wick  
Program Manager, Pesticide Management Division, Washington State Department of Agriculture

Surface soils in many areas of the state contain low to moderate levels of lead and arsenic caused by a range of historical human activities.

As Washington's population has grown over the last 50 years, many of these areas have been developed into residential neighborhoods, schools, and parks. Other land areas are now in the process of conversion away from forestry and agriculture to residential or industrial uses.

Unlike site-specific contamination problems, the clean up regulations that the state uses to protect human health and the environment may not be as readily applied or practical over large land areas. Fortunately, immediate public health concerns generally are not a factor for most areas.

The primary sources of the lead and arsenic contamination were air deposition from two smelters and the application of lead arsenate pesticides, primarily in apple and pear orchards. Other sources of lead, such as gasoline or paint, were not at as significant a level. Smelter operations were discontinued in 1912 and 1985. Use of lead arsenate pesticides generally stopped in 1947. However, elevated levels above natural backgrounds still exist over wide land areas as these products do not disappear with time or move off site easily.

Increased developmental activities are raising health, environmental, and marketplace concerns. In response, the Departments of Ecology, Agriculture, and Health and OCD have organized a task force to assist in developing a statewide strategy for response. This strategy will: (1) include a study of the nature and geographic extent of lead and arsenic deposition, (2) identify feasible measures to protect human health and the environment, and (3) recommend institutional and regulatory changes to improve how area-wide soil contamination problems are addressed.

Planners who work with the GMA, developers, and citizens may want to track the progress of the task force over the next year as the strategy is developed. There could be financial impacts around land conversion or possible cleanup options. Individuals may also need to be made aware of possible steps to reduce health or financial impacts, if they live in more affected areas.

Further information is available at: [www.ecy.wa.gov/programs/tcp/area\\_wide/area\\_wide](http://www.ecy.wa.gov/programs/tcp/area_wide/area_wide).

## State Endangered Species Program works on pesticide issues

By Bridget Moran  
Endangered Species Coordinator, Pesticide Management Division, Washington State Department of Agriculture

What's in the water? Recent reports indicate that pharmaceuticals, industrial pollutants, common detergents, and pesticides have been found in American streams and rivers.

In Washington, that's not all. Threatened and endangered fish are also present in our waterways. With state salmon recovery efforts well underway, the Washington State Department of Agriculture (WSDA) is carrying out its Endangered Species Program to ensure that pesticide use and salmon recovery efforts can be compatible.

The WSDA program will evaluate the presence and effects of pesticide residues in salmon-bearing streams in the state. The WSDA, as a member of the Washington State Pesticide/ESA Task Force, described its strategy in a report, *A Process for Evaluating Pesticides in Washington State Surface Waters for Potential Impacts to Salmonids* (WSDA, 2001, [www.wa.gov/agr/pmd/](http://www.wa.gov/agr/pmd/)

[pesticides/esa.htm](http://pesticides/esa.htm)). The task force includes scientists and managers from state and federal agencies.

The program will determine which pesticides are present in salmon habitat and assess what effect that pesticide (type and amount) may have on threatened and endangered salmon. If it is determined that the pesticide residues measured would adversely affect these salmon, the WSDA will use its regulatory authority to modify or restrict the use of the pesticide. Use restrictions and/or mitigation measures will be designed to prevent pesticides from getting into salmon-bearing streams. Reducing pesticide transport to water reduces salmon exposure to pesticides, and as a result, greatly reduces the risk that pesticides may pose to threatened and endangered salmon.

WSDA's program is designed to achieve Endangered Species Act (ESA) compliance. This not only benefits threatened and endangered salmon, it also benefits the pesticide applicator by reducing the legal and political challenges that have followed implementation of the ESA to date.



# Agriculture lands and the Growth Management Act

By Alan D. Copsey

Washington Assistant Attorney General

*This document is the product of the author and should not be construed as an official opinion of the Attorney General.*

All cities and counties in Washington are required to designate agricultural lands of long-term commercial significance under the GMA.

Agricultural land is not defined by landowner intent or current use.<sup>1</sup> Rather, agricultural lands are defined as lands not already characterized by urban growth that are actually used or capable of being used for the commercial production of agricultural products (including fruits and vegetables, livestock and dairy, turf and seed production, horticulture, wine production, some Christmas trees, and finfish in upland hatcheries).<sup>2</sup> Long-term commercial significance is determined based on the qualities of the land itself, including its growing capacity, productivity, and soil composition, giving consideration to its proximity to population areas and the possibility of more intense uses.<sup>3</sup>

All agricultural lands meeting the statutory definition were to be designated by September 1, 1991, to prevent their irreversible loss to development. Agricultural lands lying within municipal boundaries or designated urban growth areas are not exempt from the requirement, although the jurisdiction is required to adopt a program authorizing transfer or purchase of development rights from designated agricultural lands.<sup>4</sup>

Counties and cities planning under RCW 36.70A.040 must also adopt development regulations to conserve agricultural lands of long-term commercial significance. This conservation requirement includes two components:

(1) Counties and cities may not permit land uses on designated agricultural lands that are incompatible with agricultural uses. Counties and cities may use innovative zoning techniques to conserve agricultural lands, but nonagricultural uses must be limited to land that is not suitable for agricultural purposes.<sup>5</sup>

(2) Land uses that interfere with or prevent the agricultural use of designated

agriculture lands may not be permitted adjacent to those lands. Counties and cities may use buffers, setbacks, or land use restrictions to prevent incompatible adjacent uses. Plats and permits for development activities within 500 feet of designated agricultural lands must contain a notice that the subject property is in or near such lands and commercial activities are permitted on the designated lands that may be incompatible with residential development.<sup>6</sup>

All counties and cities are required to review their development regulations designating and conserving agricultural lands, according to the schedule in RCW 36.70A.130 (as amended in SSB 5841, Laws of 2002, Chapter 320), and revise them if necessary to fulfill the GMA agricultural conservation mandate.

May agricultural lands, once designated, be “de-designated” and converted to other uses? In *Grubb v. City of Redmond*, Central Puget Sound Growth Management Hearings Board No. 00-03-0004, the board allowed two parcels designated as agricultural land to be “de-designated,” but held the city violated the GMA by “de-designating” two other parcels that still satisfied the GMA’s definition of agricultural lands of long-term commercial significance. The board indicated it would apply heightened scrutiny to determine whether the facts justify removing parcels from agricultural designation. The board’s decision was upheld in superior court and currently is on appeal to the court of appeals (*City of Redmond v. Central Puget Sound Growth Management Hearings Board*, No. 48814-7-I).

Critical areas regulations may overlay agricultural designations.<sup>7</sup> In *Friends of*

*Skagit County/Skagit Audubon Society v. Skagit County*, Western Washington Growth Management Hearings Board, No. 96-2-0025/00-2-0033c, the board found the county’s managed buffer plan for streams running through agricultural lands did not fully comply with the GMA. The superior court upheld the board’s decision in part, but reversed the board’s approval of relaxed critical areas protection measures imposed on agricultural activities (*Swinomish Indian Tribal Community v. Western Washington Growth Management Hearings Board*, Thurston County Superior Court, No. 01-2-00278-1). As of this writing, the county has not determined whether it will appeal the superior court’s decision.

<sup>1</sup> *City of Redmond v. Central Puget Sound Growth Management Hearings Board*, 136 Wn.2d 38, 52-54, 959 P.2d 1091 (1998).

<sup>2</sup> RCW 36.70A.030(2), .170(1)(a); *Redmond*, 136 Wn.2d at 53.

<sup>3</sup> RCW 36.70A.030(10); WAC 365-190-050. See *Redmond*, 136 Wn.2d at 54-55 (counties and cities must consider factors in WAC 365-190-050 when designating agricultural resource lands).

<sup>4</sup> RCW 36.70A.060(4); *Redmond*, 136 Wn.2d at 48, 55-57.

<sup>5</sup> RCW 36.70A.040(3), (4), (5); .060(1); .177; *King County v. Central Puget Sound Growth Management Hearings Board*, 142 Wn.2d 543, 559-61, 14 P.3d 143 (2000).

<sup>6</sup> RCW 36.70A.060(1); *King County*, 142 Wn.2d at 556.

<sup>7</sup> WAC 365-190-040(1). The 2002 Legislature passed ESHB 2305 (Laws of 2002, Chapter 298), which exempts agricultural lands from regulation under the Shoreline Management Act. That exemption does not exempt agricultural lands from regulation under the critical areas requirements of the GMA.



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